

FILED  
U.S. DISTRICT COURT  
DISTRICT OF WYOMING

2017 JAN -6 AM 10:53

STEPHAN HARRIS, CLERK  
CHEYENNE

Page 2

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District of Wyoming
Name (under which you were convicted): <u>Rogelio Munoz Rodriguez Jr</u>		Docket or Case No.: <u>17-cv-04-S 5709</u>
Place of Confinement: <u>Park County Detention Center</u>		Prisoner No.:
Petitioner (include the name under which you were convicted) <u>Rogelio Munoz Rodriguez Jr</u>		Respondent (authorized person having custody of petitioner) <u>Park County Detention Center</u>
v.		
The Attorney General of the State of WY		

## PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

Cody Wyoming Circuit Court

- (b) Criminal docket or case number (if you know):
- 5709

2. (a) Date of the judgment of conviction (if you know):
- November 29 2016 Preliminary

(b) Date of sentencing: November 29 2016 Preliminary hearing  
case got bounded over to district

3. Length of sentence:
- NA

4. In this case, were you convicted on more than one count or of more than one crime?
- ☐
- Yes
- ☒
- No

5. Identify all crimes of which you were convicted and sentenced in this case:
- NA

6. (a) What was your plea? (Check one)

(1) Not guilty ☒  
(2) Guilty ☐(3) Nolo contendere (no contest) ☐  
(4) Insanity plea ☐(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? not guilty to delivery  
of controlled sub

- (c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☒ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☒ No

Park County Wyoming

Page 3

8. Did you appeal from the judgment of conviction? ☐ Yes ☒ No

9. If you did appeal, answer the following:

(a) Name of court: in the Circuit court fifth Judicial District

(b) Docket or case number (if you know): 5209

(c) Result: bounded over to district

(d) Date of result (if you know): November 29 2016

(e) Citation to the case (if you know): NA

(f) Grounds raised: NA

(g) Did you file a petition for certiorari in the United States Supreme Court? ☐ Yes ☐ No

If yes, answer the following:

(1) Docket or case number (if you know): \_\_\_\_\_

(2) Result: \_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation to the case (if you know): \_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: in the Circuit Court fifth Judicial District

(2) Docket or case number (if you know): CR-2016-230-COD

(3) Date of filing (if you know): December 15 2016

(4) Nature of the proceeding: Motion for Dismissal Pro-se

(5) Grounds raised: Due Process rights Violated Violation of Constitutional Rights

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? ☐ Yes ☒ No

(7) Result: NA

(8) Date of result (if you know): NA

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? ☐ Yes ☐ No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☒ No

(2) Second petition: ☐ Yes ☒ No

(3) Third petition: ☐ Yes ☒ No

Page 4

(d) If you did not appeal to the highest state court having jurisdiction, explain why you did not: \_\_\_\_\_

N/A

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

Please go to Ground One

yellow Stone County Billings Montana

GROUND ONE: violation of extradition Rights

Page 5

- (a) Supporting facts (Briefly summarize your claim. You may provide additional argument and legal citations in a separate supporting memorandum): got extradited without signing a Extradition Waiver

- (b) If you did not exhaust your state remedies on Ground One, explain why: park County came to pick me up

- (c) Direct Appeal of Ground One:  
 (1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No  
 (2) If you did not raise this issue in your direct appeal, explain why: got extradited

- (d) Post-Conviction Proceedings:  
 (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? ☐ Yes ☒ No  
 (2) If your answer to Question (d)(1) is "Yes," state:  
 Type of motion or petition: NA

Name and location of the court where the motion or petition was filed: NA

Docket or case number (if you know): 2175

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

- (3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No  
 (4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No  
 (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No  
 (6) If your answer to Question (d)(4) is "Yes," state:  
 Name and location of the court where the appeal was filed: NA

Docket or case number (if you know): 2175

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

- (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:  
because Park County came and picked me up

- (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: NA

GROUND TWO: \_\_\_\_\_

- (a) Supporting facts (Briefly summarize your claim. You may provide additional argument and legal citations in a separate supporting memorandum): \_\_\_\_\_

- (b) If you did not exhaust your state remedies on Ground Two, explain why: \_\_\_\_\_

- (c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

- (d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? ☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_

- (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: \_\_\_\_\_

GROUND THREE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (a) Supporting facts (Briefly summarize your claim. You may provide additional argument and legal citations in a separate supporting memorandum): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (b) If you did not exhaust your state remedies on Ground Three, explain why: \_\_\_\_\_  
\_\_\_\_\_

- (c) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_  
\_\_\_\_\_

- (d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? ☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_  
\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_  
\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_  
\_\_\_\_\_

- (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: \_\_\_\_\_  
\_\_\_\_\_

GROUND FOUR: \_\_\_\_\_

- (a) Supporting facts (Briefly summarize your claim. You may provide additional argument and legal citations in a separate supporting memorandum): \_\_\_\_\_
- (b) If you did not exhaust your state remedies on Ground Four, explain why: \_\_\_\_\_
- (c) Direct Appeal of Ground Four:  
 (1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No  
 (2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_
- (d) Post-Conviction Proceedings:  
 (1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? ☐ Yes ☐ No  
 (2) If your answer to Question (d)(1) is "Yes," state:  
 Type of motion or petition: \_\_\_\_\_  
 Name and location of the court where the motion or petition was filed: \_\_\_\_\_  
 Docket or case number (if you know): \_\_\_\_\_  
 Date of the court's decision: \_\_\_\_\_  
 Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
 (3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No  
 (4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No  
 (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No  
 (6) If your answer to Question (d)(4) is "Yes," state:  
 Name and location of the court where the appeal was filed: \_\_\_\_\_  
 Docket or case number (if you know): \_\_\_\_\_  
 Date of the court's decision: \_\_\_\_\_  
 Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
 (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: \_\_\_\_\_
- (e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_

Page 9

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: \_\_\_\_\_

\_\_\_\_\_

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: \_\_\_\_\_

\_\_\_\_\_

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. \_\_\_\_\_

\_\_\_\_\_

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. \_\_\_\_\_

\_\_\_\_\_

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: \_\_\_\_\_

\_\_\_\_\_

(b) At arraignment and plea: \_\_\_\_\_

\_\_\_\_\_

(c) At trial: \_\_\_\_\_

\_\_\_\_\_

(d) At sentencing: \_\_\_\_\_

\_\_\_\_\_

(e) On appeal: \_\_\_\_\_

\_\_\_\_\_

(f) In any post-conviction proceeding: \_\_\_\_\_

\_\_\_\_\_

(g) On appeal from any ruling against you in a post-conviction proceeding: \_\_\_\_\_

\_\_\_\_\_



Page 10

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging?

☐ Yes ☐ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: \_\_\_\_\_

\_\_\_\_\_

(b) Give the date the other sentence was imposed: \_\_\_\_\_

\_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

\_\_\_\_\_

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future?

☐ Yes ☐ No

Please go to Question 18

[illegible]

**(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.**

Page 12

Therefore, petitioner asks that the Court grant the following relief: impunitive damages  
loss wages, defamation of character, slander mental anguish  
or any other relief to which petitioner may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. I further declare under penalty of perjury that this Petition for Writ of Habeas Corpus was placed in the institutional mailing system or deposited with prison officials on \_\_\_\_\_ (month, day, year).  
I attest that first-class postage has been prepaid.

Executed (signed) on \_\_\_\_\_ (date).

Rogelio Rodriguez  
Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_